

CHAP. DLXXVI.—*An Act supplemental to amendatory of an Act entitled "An Act to regulate the practice of medicine in the State of California," approved April 3d, 1876.*



The People of the State of California, represented in Senate and Assembly, do enact as follows:

Persons
practicing
medicine
and surgery
to present
diploma to
Board.

Board of
Examiners
appointed
by what.

Vacancies;
how filled.

Board to
examine
diplomas.

Applicant
to make
affidavit
containing
what.

SECTION 1. Section one of an Act entitled "An Act to regulate the practice of medicine in the State of California, approved April 3d, 1876, is hereby amended so as to read as follows: Section one. Every person in this State practicing medicine or surgery, in any of its departments, shall possess the qualifications required by this Act. Every such person shall present his diploma to one of the Boards of Examiners herein named, together with the affidavit mentioned in section three (3) of this Act. If the Board shall find all the facts required to be stated in said affidavit to be true, the Board of Examiners shall issue its certificate to that effect, signed by all the members thereof, and sealed with the seal of the Board, and such certificate shall be conclusive as to the right of the person named therein to practice medicine and surgery in any part of this State.

SEC. 2. Section two (2) of said Act is hereby amended as to read as follows: Section two. The Medical Society of the State of California, the Eclectic Medical Society of the State of California, and the California State Homeopathic Medical Society, corporations organized and existing under and by virtue of the laws of this State, and no other corporation, society, persons or person, shall appoint annually a Board of Examiners, consisting of seven members, who shall hold their office for one year and until their successors shall be chosen. The Examiners so appointed shall go before District or County Judge and make oath that they are regular graduates, and that they will faithfully perform the duties of their office. Vacancies occurring in a Board of Examiners shall be filled by the society appointing it, by the selection of alternates, or otherwise. The Board of Examiners now organized, or existing under and by virtue of the appointments by the aforesaid societies, shall continue to act as such Boards until their successors are appointed at the next annual election.

SEC. 3. Section four (4) of said Act is hereby amended as to read as follows: Section four. Said Board of Examiners shall examine diplomas as to their genuineness, and if the diploma shall be found genuine, as represented, the Secretary of the Board of Examiners shall receive a fee of five dollars from each graduate or licentiate, and no further charge shall be made to the applicant, but if it be found to be fraudulent, or not lawfully owned by the possessor, the Board shall be entitled to charge and collect twenty dollars of the applicant presenting such diploma. The applicant shall accompany his diploma with an affidavit stating that he is the lawful possessor of the same, that he is the person therein named, that the diploma was procured in the regular

course of medical instruction, and without fraud or misrepresentation of any kind, and that the medical institution granting the diploma had, at the time of the granting the same, a full corps of medical instructors, and was at the said time a legally incorporated institution, actually and in good faith engaged in the business of medical education, and in good standing as a medical institution, and that the applicant had complied with all the requirements of said institution. Such affidavit may be taken before any person authorized to administer oaths, and the same shall be attested under the hand and official seal of such officer, if he have a seal. In addition to such affidavit, the Board of Examiners may hear such further testimony as in their discretion they may deem proper to hear, as to the verification of any such diploma, or as to the identity of the person named therein, or as to the manner in which any such diploma was procured, and if it should appear from such testimony that any fact stated in said affidavit is untrue, the application of such person for a certificate shall be rejected. None of said Boards shall entertain an application which has been rejected by another of said Boards, nor shall any rejected application be renewed until at least one year after the action of the Board rejecting the same.

SEC. 4. Section ten (10) of said Act is hereby amended so as to read as follows: Section ten. The Board of Examiners must refuse certificates to individuals guilty of unprofessional conduct. But before any such refusal the applicant must be cited by a citation signed by the Secretary of the Board, and sealed with its seal, to appear before the Board at a time and place certain for the purpose of being heard as to such unprofessional conduct. Said citation shall notify the applicant of the time and place, where and when the matter of said unprofessional conduct shall be heard, the particular unprofessional conduct with which the applicant is charged, and that the applicant shall then and there appear in person, and attended with such witnessess to testify on his behalf as he may desire, or default will be taken against him, and his application for a certificate refused. The attendance of witnesses at such hearing shall be compelled by subpœnas issued by the Secretary of the Board under its seal; and said Secretary shall in no case refuse to issue any such subpœna on a fee of fifty cents being paid him for each subpœna. Said citations and said subpœnas shall be served in accordance with existing provisions of law as to the service of citations and subpœnas generally. At such hearing witnessess shall be examined on the part of the Board and on the part of the applicant as to the fact of the applicant having been guilty of the conduct set out in the citation, and either side may examine medical experts as to whether such conduct is unprofessional, and if it appear to the satisfaction of the Board that the applicant is guilty of the said unprofessional conduct, no certificate shall be issued to him. But no application shall be refused on the ground of unprofessional conduct, unless the applicant has been guilty of unprofessional conduct within one year next preceding his

Refusal of certificates for unprofessional conduct.

Hearing of matters.

Attendance of witnesses.

Revocation of certificate. application. If any holder of a certificate be guilty of unprofessional conduct, his certificate must be revoked by the Board granting it; but no such revocation shall be valid without said holder being cited to appear, and the same proceedings be had as is hereinabove provided in this section in the case of refusal to grant a certificate. Whenever a certificate is revoked, the Secretary of the Board revoking the same shall certify the fact, under the seal of the Board, to the County Clerk of the county in which the person whose certificate has been revoked is at the time of said revocation practicing his profession, and said Clerk shall thereupon write on the margin, or across the face of his register of the certificate of such person, the fact of such revocation, signing his name thereto, and shall file in his office said certificate of revocation. Each of said Boards may, from time to time, adopt such rules as may be necessary to the orderly conduct of all proceedings taken and had before it. It shall be the duty of the Secretary of the respective Boards to notify the Secretary of all other Boards provided for under this Act of all applicants to whom licenses may have been refused, together with the reasons of such refusal by such Boards.

Duty of Secretary upon revocation of certificate.

Adoption of rules.

Practice of medicine defined.

License imposed on certain persons.

Misdemeanor.

SEC. 5. Section eleven (11) of said Act is hereby amended so as to read as follows: Section eleven. Any person shall be regarded as practicing medicine, within the meaning of this Act, who shall profess publicly to be a physician, or who shall habitually prescribe for the sick, or who shall append to his name the letters "M. D." but nothing herein contained shall be construed to prohibit gratuitous services in cases of emergency. And this Act, and the Act to which this Act is supplemental and amendatory, shall not apply to lawfully commissioned surgeons of the United States Army or Navy practicing their profession within the limits of this State.

SEC. 6. Section twelve (12) of said Act is hereby amended so as to read as follows: Section twelve. Any itinerant vendor who shall sell, or offer for sale, any drug, nostrum, ointment, or appliance of any kind intended for the treatment of disease or injury, or any person who shall, by writing or printing, or by any other method, publicly profess to cure or treat disease, injury, or deformity by any medicine, drug or drugs, nostrum, manipulation, or other expedient, shall pay a license of one hundred dollars a month. Such license shall be collected as other licenses are.

SEC. 7. Any person practicing medicine or surgery in this State, without first having procured a certificate to practice from one of the Boards of Examiners appointed by one of the societies mentioned in section two of this Act, shall be deemed guilty of a misdemeanor and shall be subject to the penalties provided in section thirteen of the Act to which this Act is amendatory and supplemental, but the person who holds a certificate from one of such Boards of Examiners, or who holds a certificate heretofore granted by the Board of Examiners heretofore existing by virtue of appointment by the California State Medical Society,

Homeopathic Practitioners, shall be compelled to procure a new certificate. And all powers and privileges of said Boards of Examiners, under the Act to which this Act is supplemental and amendatory, are hereby transferred to the Boards of Examiners created by this Act.

SEC. 8. Any person assuming to act as a member of a ^{Misde-}
^{meanor.} Board of Examiners, under this Act or under the Act to which this Act is supplemental and amendatory, or who shall sign, or subscribe, or issue, or cause to be issued, or seal, or caused to be sealed, a certificate authorizing any person to practice medicine or surgery in this State, except the person so acting and doing be appointed by one of the societies mentioned in section two of this Act, or be authorized so to do by a Board of Examiners appointed by one of said societies, shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than fifty dollars, or by imprisonment in the County Jail for a period of not less than thirty nor more than three hundred and sixty-five days, or by both such fine and imprisonment.

SEC. 9. Should either of the said Boards issue a certificate to any person whose application for a certificate has been previously rejected by another of the said Boards, within one year after the rejection of said application, then in such case the certificate issued as aforesaid to said rejected applicant shall be null and void and of no effect. ^{Certain certificates made null.}

SEC. 10. If any person not a graduate or licentiate of medicine has been unable to present himself for examination to any of said Boards, as provided in section one of this Act, then and in such case it shall be lawful for either of said Boards, on good cause shown why said person was unable so as to present himself for examination, to examine such person touching his qualifications to practice medicine or surgery, and if said examination shall be satisfactory to the Board, it shall thereupon issue its certificate in accordance with the facts, and the lawful holder thereof shall be entitled to all the rights and privileges of graduates or licentiates to whom certificates have been issued under this Act and the Act to which this Act is amendatory and supplementary, but no such examination shall be had after the expiration of sixty days from the time this Act shall take effect. ^{Examina-}
^{tion of ap-}
^{plicants to}
^{practice}
^{medicine.}

SEC. 11. This Act shall be in effect from and after its passage.

This bill having remained with the Governor ten days (Sundays excepted), and the Legislature being in session, it has become a law this first day of April, A. D. eighteen hundred and seventy-eight.

THOMAS BECK, Secretary of State.